

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): William OGILVIE	Certificate of Transmission/Mailing
Serial No.: 10/552,951	
Filed: June 22, 2006	
Title: INTERPOSITIONAL BIARTICULAR DISK IMPLANT	
Group Art Unit: 3774	
Examiner: Joshua H. Levine	
Confirmation No. 6894	<u>January 7, 2010</u> <u>/James J. Schumann/</u>
Attorney Docket No.: 81723/5865	Date James J. Schumann Registration No. 20,856 Attorney for Applicant(s)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST

Dear Sir:

It is requested that the finality of the rejection set forth in the Office Action mailed December 28, 2009 in the above-identified application be reconsidered and withdrawn. The rejection of the majority of the claims in this application is based upon the disclosure of U.S. Patent No. 4,055,862 to Farling and/or the disclosure of U.S. Patent No 5,743,918 to Calandruccio. It is not believed that either of these two references was ever applied and/or cited in the prosecution of this application.

It is requested that a Notice of References Cited (PTO Form 892) be issued listing these references and that the rejection be made non-final.

Date: January 7, 2010

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

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/James J. Schumann/

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